

**UNITED STATES COURT OF APPEALS**

**AUG 29 2000**

**TENTH CIRCUIT**

**PATRICK FISHER**  
Clerk

GARY BAXTER,

Petitioner-Appellant,

v.

JOE WILLIAMS, Warden, Lea County  
Correctional Facility; GARY  
JOHNSON, Governor, State of New  
Mexico; ROBERT PERRY, Secretary  
of Corrections; NEW MEXICO  
CORRECTIONS DEPARTMENT,  
State of New Mexico; WACKENHUT  
CORRECTIONS CORPORATION, a  
Florida corporation; LEA COUNTY,  
NEW MEXICO; ATTORNEY  
GENERAL FOR THE STATE OF  
NEW MEXICO,

Respondents-Appellees.

No. 00-2202  
(District of New Mexico)  
(D.C. No. CIV-00-665-BB/RLP)

**ORDER AND JUDGMENT\***

Before **BRORBY, KELLY, and MURPHY**, Circuit Judges.

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\*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

After examining the briefs and appellate record, this three-judge panel has determined unanimously that oral argument would not materially assist the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

The facts and issues in this case are identical to those in *Rael v. Williams*, No. 00-2145, 2000 WL1051845 (10th Cir. July 31, 2000). Thus, our decision is governed by the analysis and conclusions therein.

Accordingly, this court **GRANTS** a certificate of appealability and **AFFIRMS** the judgment of the district court as modified to dismiss the claim cognizable under 28 U.S.C. § 2241 with prejudice; all other claims contained in the petition are dismissed without prejudice.

ENTERED FOR THE COURT:

Michael R. Murphy  
Circuit Judge